

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 14,089

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her Essential Person (EP) benefits. The issue is whether the petitioner is over income for the program.

FINDINGS OF FACT

The facts are not in dispute. The petitioner suffers from a chronic back condition that has led to numerous hospitalizations and has left the petitioner with significant handicaps. The petitioner must rely on her husband for assistance in many activities of her daily living.

Until January 1, 1996, the petitioner qualified for an EP grant based on her need for the care and assistance provided by her husband. The petitioner receives Social Security benefits of \$370.00 a month after her medicare premium is deducted, and the petitioner's EP grant was calculated according to this amount of family income.

Recently, however, the Department learned that in calculating the petitioner's benefits it had mistakenly not taken into account unemployment compensation totalling \$911.00 a month received by the petitioner's husband. Effective January 1, 1996, the Department determined that this additional income placed the petitioner's household over the EP income maximum of \$977.36 a month, and it terminated the petitioner's benefits.

Unfortunately, the petitioner had come to rely on the EP benefits and is in the midst of a course for home employment that she may not be able to continue if her benefits are cut off.

ORDER

The Department's decision is affirmed.

REASONS

Under the EP regulations the maximum income standard for an eligible couple in Chittenden County (where the petitioner lives) is \$977.36. W.A.M. §§ 2732 and 2754, and Procedures Manual § P-2740. The petitioner's net income after all applicable disregards is \$1296.60. W.A.M. § 2756.

Unfortunately, there is no provision in the regulations for continuing benefits based on a household's reliance on an erroneous payment level. Inasmuch as the Department's decision is in accord with the applicable regulations, it must be affirmed. 3 V.S.A. § 3091(d), and Fair Hearing Rule No. 17.

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